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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed September 2, 2005. In the Office Action, the Examiner notes that claims 1-13, 16, 18, 21-24 and 29 are pending and rejected. By this response, Applicants have amended claim 1. No new matter has been entered.

In view of both the amendments presented above and the following discussion, Applicants submit that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendment.

REJECTIONS

35 U.S.C. §102

Claims 1, 4-13, 16 and 18

The Examiner has rejected claims 1, 4-13, 16 and 18 under 35 U.S.C. §102(b) as being anticipated by Herz et al. U.S. Patent No. 5,758,257 (hereinafter "Herz"). Applicants respectfully traverse the rejection.

In general, Herz teaches a system for scheduling the receipt of desired movies and other forms of data from a network which simultaneously distributes many sources of such data to many customers. In particular, Herz teaches that customer profiles are developed for each customer. The customer profiles describe the importance of certain characteristics of broadcast video programs to each customer. From the customer profiles, an agreement matrix is calculated by comparing the customer profiles to video profiles which define the characteristics of available video programs. In other words, the agreement matrix characterizes the attractiveness of each video program to each prospective customer. As taught in Herz, virtual channels are generated from the agreement matrix to produce a series of video or data programming which will provide the greatest satisfaction to each customer.

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Herz, however, fails to teach or suggest each and every limitation of Applicants' invention of at least claim 1. Namely, Herz fails to teach or suggest at least the limitation of "polling the plurality of terminals for trend data, the trend data being generated by an application executing at the plurality of terminals, the trend data including preference indicative information, the preference indicative information including subscriber selections received at the terminals, the subscriber selections comprising selections associated with at least one IPG page," as taught in Applicants' invention of at least claim 1. Specifically, Applicants claim 1 positively recites:

A method for targeting programming according to subscriber preferences, comprising:

propagating, via a forward application transport channel (FATC), a plurality of video streams representing respective pages of an interactive program guide (IPG), each IPG page depicting programming associated with a respective pair of channel groups and time slots;

polling the plurality of terminals for trend data, the trend data being generated by an application executing at the plurality of terminals, the trend data including preference indicative information, the preference indicative information including subscriber selections received at the terminals, the subscriber selections comprising selections associated with at least one IPG page;

receiving the trend data via a back channel;

determining trend data associated with determined subscriber selections;

and

adapting at least one IPG page in response to said determined trend data.

(Emphasis added.)

As such, Applicants' invention of at least claim 1 teaches a method for targeting programming according to subscriber preferences. A plurality of video streams which represent respective pages of an interactive program guide (IPG), are propagated via a forward application transport channel. A plurality of terminals is polled for trend data, where trend data includes preference indicative information. The preference indicative information includes subscriber selections received at the terminals. The subscriber selections include selections associated with at least one IPG page. In other words, Applicants' invention of at least claim 1 collects trend data based on selections made from IPG pages as the user navigates the IPG pages. For example, trend data may be collected as a result of a subscriber viewing details of a particular program via the IPG pages (e.g., by highlighting and selection an "information" link), without the subscriber actually watching the program.

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By contrast, Herz teaches updating of a customer profile (indicative of the preferences of that customer) using content profiles associated with video programs actually watched by the customer. In particular, a portion of Herz cited by the Examiner for teaching the trend data of Applicants' invention specifically states that "a passive feedback technique is provided for updating the customer profiles in accordance with the video programming actually watched by the customer." (Herz, Col. 6, Lines 36-38). Similarly, Herz specifically teaches that "the monitoring function is accomplished by storing, at each customer's set top multimedia terminal, a record of the video programs actually watched by the customer." (Herz, Col. 6, Lines 56-59).

In other words, Herz merely teaches updating a customer profile based on video programs actually watched by a customer. A video program is simply not a IPG page. Rather, from an IPG page, a subscriber may make various other selections useful as preference indicative information in accordance with Applicants' invention of at least claim 1. As such, the updating of a customer profile based on video programs actually watched by a customer, as taught in Herz, is simply not polling a plurality of terminals for trend data where the trend data includes subscriber selections comprising selections associated with at least one IPG page.

Furthermore, each of the other portions of Herz cited by the Examiner fails to teach or even suggest Applicants' limitation of polling a plurality of terminals for trend data where trend data includes subscriber selections comprising selections associated with at least one IPG page. For example, Col. 41, Lines 42-56 of Herz merely teaches hardware configurations for transmitting collected data from customer terminals to an associated headend. For example, Col. 43, Lines 2-12 of Herz merely teach that each remote terminal is instructed to transmit collected data to an associated headend in response to a command from a CATV system controller.

As such, each portion of Herz cited by the Examiner for teaching Applicants' invention of at least claim 1 fails to teach or even suggest at least the limitation of "polling the plurality of terminals for trend data, the trend data being generated by an application executing at the plurality of terminals, the trend data including preference indicative information, the preference indicative information including subscriber selections received at the terminals, the subscriber selections comprising selections

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associated with at least one IPG page," as taught in Applicants' invention of at least claim 1. Moreover, Herz is completely devoid of any teaching or suggestion of collecting any data associated with subscriber selections associated with an IPG page. As such, Herz fails to teach or suggest each and every element of Applicants' invention of at least claim 1, as arranged in the claim.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). The Herz reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

As such, Applicants submit that independent claim 1 is not anticipated and fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder. Furthermore, claims 4-13, 16, and 18 depend, either directly or indirectly, from independent claim 1 and recite additional limitations therefor. As such, and for at least the same reasons as discussed above, Applicants submit that the dependent claims are also not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

35 U.S.C. §103

Claims 2-3, 21-24

The Examiner has rejected claims 2-3 and 21-24 under 35 U.S.C. §103(a) as being unpatentable over Herz in view of Hendricks et al. U.S. Patent No. 6,539,548 (hereinafter "Hendricks"). Applicants respectfully traverse the rejection.

Claims 2-3 and 21-24 depend directly or indirectly from independent claim 1. As such, for at least the reasons discussed above in response to the Examiner's §102 rejection of independent claim 1, Applicants respectfully submit that the Herz reference fails to teach or suggest Applicants' invention as a whole. Furthermore, Hendricks fails to bridge the substantial gap between the Herz reference and Applicants' invention.

In general, Hendricks discloses an operations center for a television program packaging and delivery system. The operations center organizes and packages

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television programming and program information for delivery to and from consumer homes. It is noted that demographic information is utilized in the context of a computer assisted packaging system (CAP) 260 (along with program ratings) in performing program packaging tasks. As taught in Hendricks, demographic information is generated at the operations center and stored within a database associated with the operations center. That is, demographic data is not provided by the set top terminals; rather, it is determined at the operations center by, for example, a marketing information interface (MII) 402. The MII cooperates with the other operations center functions to derive the demographic information and store it therein.

Hendricks, however, fails to teach or suggest at least the limitation of "polling the plurality of terminals for trend data, the trend data being generated by an application executing at the plurality of terminals, the trend data including preference indicative information, the preference indicative information including subscriber selections received at the terminals, the subscriber selections comprising selections associated with at least one IPG page," as taught in Applicants' invention of at least claim 1. Rather, Hendricks merely teaches that demographic data is stored in the Hendricks operations center. The demographics data of Hendricks is not trend data, much less trend data including preference indicative information such as subscriber selections received at the terminals. Furthermore, the demographics data of Hendricks is not obtained by polling remote terminals. As such, Hendricks fails to teach or suggest each and every element of Applicants' invention of at least claim 1.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The Herz and Hendricks references, alone or in combination, fail to teach or suggest Applicants' invention as a whole.

As such, Applicants submit that claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 2-3

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and 21-24 depend, either directly or indirectly, from independent claim 1 and recite additional limitations therefor. As such, and for at least the same reasons as discussed above, Applicants submit that these dependent claims also fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

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CONCLUSION

Applicants believe all the claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the issuance of an adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mike Bentley or Eamon J. Wall, Esq., both at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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